

Application No.: 10/039957

Case No.: 53325US002

**REMARKS****Election Restriction**

The Examiner stated that newly submitted claims 28 and 29 are directed to an independent or distinct invention.

The Applicant submits that claims 28 and 29 represent dependent claims 8 and 18 in independent form.

In the Restriction Requirement mailed December 1, 2003, claims 8 and 18 were not identified as being related to an independent or distinct invention. Rather such claims were included in Group I.

If the Applicant had known about the restriction earlier, Applicant could have chosen to file a divisional rather than an RCE. It is unfair to the Applicant that such a restriction is being made at this time. Alternatively, since this is a "new" restriction requirement, Applicant should have an opportunity to make an election.

For these reasons, the Applicant respectfully requests that the restriction requirement be withdrawn.

**Rejections Under 35 U.S.C. 102/103**

Claims 1, 4, 6-9, 12, 15, 18, 21, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Eigenmann (U.S. Patent No. 4,072,403). Claims 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eigenmann.

The Applicant submits that the Examiner has not made a prima facie case of obvious with regard to features of claims 8 and 12.

All of the Claims have been amended to recite such preferred embodiment wherein "retroreflective pavement elements in a predefined pattern interconnected by and bonded to a carrier web selected from a group consisting of a film or nonwoven web of a water-soluble or water-dispersible polymeric material, and a biodegradable material."

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These claims are supported throughout the specification such as at pp. 3-4 and by the original claims as filed

A timely allowance is respectfully requested.

Respectfully submitted,

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Date

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